

Amnesty International Testimony

Human Rights in Kashmir and the Disputed Territories

**Before the
United States Congress
Committee on Government Reform
Subcommittee on Human Rights & Wellness**

Presented by

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Thank you Mr. Chairman, and distinguished members of this committee. Amnesty International (AI) is pleased to testify at this important hearing.

The human rights situation in Kashmir has been of consistent and grave concern to Amnesty International for years. We have published several reports, news releases and urgent actions to highlight the suffering of Kashmiri civilians. For example, in 1999 Amnesty International published a major report titled "If they are dead tell us" which focused on disappearances in Jammu and Kashmir. For too long human rights have been considered subordinate to political considerations in Jammu and Kashmir.

Amnesty International is totally independent of any government, political ideology or religious creed. We work on countries all over the world for the promotion and protection of the full range of human rights laid down in international standards. We consider these rights to be universal, indivisible and interdependent. AI takes no position on political disagreements or territorial disputes between countries and, therefore, takes no position on the status of Jammu and Kashmir or political developments concerning the state.

Abuses on the Indian side of Kashmir

Civilians the victims

The civilian population of Jammu and Kashmir has paid a high price for the conflict. Total casualties since 1989 are believed to be around 38,000. In 2001 an average of 100 civilians died every month as a result of either targeted or indiscriminate violence. Most families of all backgrounds have experienced some form of loss -- of livelihood,

of a relative or of the sense of security of life and liberty and other fundamental human rights. AI continues to receive reports of human rights abuses being perpetrated on a regular basis and reports of civilians being killed in cross border shelling.

Many domestic and international organizations, including AI, have been gravely concerned for years at the high level of human rights abuses perpetrated by all sides to the conflict in Jammu and Kashmir. Those responsible have been the security forces, police and armed opposition groups. Amnesty International was not allowed to visit Jammu and Kashmir.

Abuses by the Indian Security forces and Indian police

Torture, including rape, deaths in custody, extrajudicial executions and “disappearances” have been perpetrated by agents of the state with impunity. Human rights abuses in the state are facilitated by laws, which provide the security forces with virtual immunity from prosecution for acts done in good faith. These include the Disturbed Areas Act and the Armed Forces [Jammu and Kashmir] Special Powers Act. They also allow the security forces to shoot to kill.

Prosecution of army personnel for human rights violations must be sanctioned by the Home Ministry in New Delhi: permission is rarely forthcoming.

Authorities use preventive detention to stifle political dissent. Many detainees have not committed any recognisable criminal offence and have not used or advocated violence. Under the provisions of the Jammu and Kashmir Public Safety Act people may be detained for up to two years without charge or trial on broadly defined grounds of state security.

The exemption from the judicial consequences of unlawful actions, is systematic in Jammu and Kashmir. The general climate of impunity in the state may be seen as both facilitating and encouraging further abuses of human rights in the state and the perpetrators of thousands of alleged human rights abuses, which have taken place since 1989 remain unpunished.

Impunity for Special Operations Group

Amnesty International is disturbed by reports that the government of Jammu and Kashmir intends to break the promise made in its published Common Minimum Program to investigate all reported cases of custodial killings and violations of human rights and to identify and punish appropriately those found responsible.

In an address to new trainee police recruits on 5th January (2003), Chief Minister Mohammad Sayeed reportedly stated that members of the Special Operations Group, a division of the police dealing with armed insurgency which has been accused of human rights violations, would simply be 'reoriented', implying that wide scale allegations of human rights violations made against them in the past would not necessarily be investigated. He reportedly went on to say that an amnesty would be available to those who have perpetrated abuses.

Recent developments

Amnesty International is concerned about the use of excessive force by police officials on 20 March 2004, during a march held by the Association of Parents of Disappeared Persons (APDP) in Srinagar, Jammu and Kashmir. The demonstrators were planning to present a memorandum to the UN Military Observers Group, calling upon the United Nations working group on Forced or Involuntary Disappearances to take notice of the cases of "disappearance" in the state and to punish those responsible.

At 12:30pm police personnel dispersed the march, charging participants with canes. Women were reported to have been dragged by their hair, beaten and had their clothes ripped off. Witnessing this use of excessive force by the police on women, some passers-by and local shopkeepers are said to have thrown stones at police officials.

Several APDP members, human rights defenders as well as family and friends of the "disappeared" were arrested and taken into police custody. Criminal charges under RPC section 323 were lodged against 5 APDP members: including Perveena Ahangar, Pervez Imroz, Bilal Mohammad Bhatt, Yasin Rah and Umtoo. These charges are for unlawful assembly and simple injuries that were allegedly sustained by the police personnel. After seven hours in custody they were released on bail. No criminal charges have yet been brought against those police officials responsible for using excessive force on the participants of this march.

Amnesty International calls on the State Government to condemn the excessive use of force by the police and to take steps to prevent their recurrence in future. An investigation should be conducted into the use of excessive force by police officials with the aim to bring those found responsible to justice.

Disappearances

Amnesty International has been concerned about the hundreds of "disappearances" which have taken place in Jammu and Kashmir over many years. The concerns of the organization have for years focused particularly on the impunity with which people have been "disappeared." State sanction to prosecute state officials found responsible for such abuses in independent inquiries has routinely been withheld, and court orders have been ignored by the state.

Since 1990, some 700 to 800 people have been "disappeared" after being arrested by police or armed or paramilitary forces in Jammu and Kashmir. The victims have included men of all ages, including juveniles and the very old, and all professions, including businessmen, lawyers, labourers and many teachers. Many of them appear to be ordinary citizens picked up at random, without any connection to the armed struggle in the state. Their relatives still live in unbearable uncertainty about the fate of their loved ones. The perpetration of "disappearances" also contributes to an atmosphere of fear across the state, inhibiting the wider community's right to seek justice and violating their right to association and assembly.

Abuses by the armed opposition groups

Since insurgency first began in Jammu and Kashmir in the late 1980s, armed groups have failed to abide by the standards of international humanitarian law, which forbid torture, hostage-taking and killing of unarmed civilians in areas of armed conflict. Torture, including beatings and rape, are perpetrated by members of armed groups in order to intimidate the civilian population or to punish those who are accused of providing information on the activities of these armed groups to the security forces.

Families are forced to give food and shelter to militants operating in their area: those refusing may be beaten or killed. There are regular reports of armed groups perpetrating mass killings. Armed groups are also allegedly responsible for the unlawful killing of people who have advocated a political end to the conflict.

During the recent elections in India, armed opposition groups have called for a boycott of elections and have threatened "dire consequences" for those who participated in elections. Violent attacks during recent elections in Jammu and Kashmir reportedly have left scores of people left and hundreds injured.

Pandits

An early consequence of the rise of militancy in Jammu and Kashmir was the migration of large number of Hindu Pandit community from Kashmir Valley. Militants allegedly killed several prominent members of the Pandit community, such as leading academics. In 1991 about 150,000 Pandits migrated from Kashmir Valley. Some moved to New Delhi while the rest were relocated in camps in Jammu and nearly a decade later, thousands of migrants still live in camps around Jammu.

Abuses on the Pakistan side of Kashmir

In the Pakistan side of Kashmir, preventive detention may be ordered without disclosure of grounds or the right to be brought before a magistrate. Freedom of speech may be restricted in the interest of "friendly relations with Pakistan." A compulsory Oath of Office for members of the Legislative Assembly requires the swearing of allegiance to the cause of accession of the State of Jammu and Kashmir to Pakistan.

Land mines

Extensive anti-personnel mine laying operations have been conducted by both India and Pakistan since December 2001. In many areas landmines have been laid in agricultural or pastoral lands and civilians have been displaced from these areas. Apart from a large number of civilian casualties, deaths of large numbers of livestock on both sides of the border have also been reported, adversely affecting both agricultural and pastoral communities in India and Pakistan. Armed groups in Jammu and Kashmir use landmines indiscriminately on public highways and thoroughfares to ambush army convoys as well as indiscriminately injuring hundreds of civilians in grenade attacks.

US Policy

The United States should be more assertive in raising human rights issues with the Indian and Pakistani Governments. It is important that the US Administration keep human rights as one of its core issues during any discussions with India and Pakistan.

Conclusion

Concerted and honest efforts to uphold human rights in Jammu and Kashmir are in everyone's interest. The restoration of the rule of law and respect for human rights are the foundation for achieving security and peace within Jammu and Kashmir.

Recommendations:

To The US Government:

- Ensure that human rights are at the centre of all the discussion on Kashmir.

To the Government of India:

- Release all Prisoners of Conscience.
- Take immediate steps to stop torture, rape, deaths in custody, extrajudicial executions and "disappearances."
- Ensure that all reports of human rights abuses are investigated promptly, independently and impartially and that all perpetrators are held to account. Laws that facilitate impunity should be amended to bring them into conformity with international human rights standards of justice.
- Allow international human rights organizations, including Amnesty International, to visit Jammu and Kashmir.

To the Government of Pakistan

- Allow freedom of expression.
- Stop abuses under preventive detention.

To India and Pakistan

- AI's most important recommendation at this time is that human rights concerns are placed where they should be – namely, at the centre of any attempt to resolve this long-running conflict. For too long, the human rights of ordinary people on both sides of the Line of Control have been ignored, with resulting human suffering on a massive scale;
- Respect international humanitarian law that prohibits deliberate or indiscriminate attacks on civilians and those not taking direct part in hostilities;
- Ensure that the needs of the many tens of thousands of displaced people are met.

To armed opposition groups

- Respect international humanitarian law that prohibits deliberate or indiscriminate attacks on civilians and those not taking direct part in hostilities.
- Stop torture and killing of unarmed civilians.
- Stop using anti-personnel landmines.

Thank you.

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